

Page 1

AMERICAN ARBITRATION ASSOCIATION

In the Matter of }  
Arbitration Between: }  
Communication Workers }  
of America, Local 4340, }  
and } Case No.: 01-16-0004-6966  
City of Cleveland }

Transcript of proceedings before

Robert J. Stein, Arbitrator, held at the  
Burke Lakefront Airport, 1501 North Marginal Road,  
Cleveland, Ohio 44114 on Thursday, January 18, 2018,  
commencing at 10:00 a.m.

# EXHIBIT

## 6

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**EXHIBIT**

8

	Page 2	Page 4
1 APPEARANCES:		EXHIBITS
2 On behalf of the Union:		JOINT
3 David Passalequa		MARKED
Executive Vice President		premarked
4 Communications Workers of America		CITY
1400 East Schaaf Road	1	19
5 Brooklyn Heights, Ohio 44131	2	41
6	3	45
7 On behalf of the City:	4	123
8 Patrick J. Hoban, Esq.	5	124
Zashin & Rich	6	128
9 Ernst & Young Tower	7	166
950 Main Street	8	214
10 4th Floor	9	223
Cleveland, Ohio 44113		
11		
12 Also present:		UNION
13 Jamie Marquardt, Grievant	1 through 11	Premarked
Leonard Brooks, Business Agent		
14 Nicole Carlton, Commissioner of EMS	16	---
15 ---	17	
16	18	
17	19	
18	20	
19	21	
20	22	
21	23	
22	24	
23	25	
24		
25		
	Page 3	Page 5
1 INDEX		PROCEEDINGS
2 CITY WITNESSES: DIRECT CROSS REDIRECT RECROSS		THE ARBITRATOR: Good morning,
3 Mark Barrett 15 23 30 31		everybody. We're here on January 18, 2018,
4 By The Arbitrator 31		for a case with the City of Cleveland and CWA,
5 Gregory Hyde 33 51/63 66 68		Local 4340. The case is AAA case
6 By the Arbitrator 60		01-16-0004-6966. The Grievant in this case is
7 Michael Threat 70 81 90 94		Jamie Marquardt, and this is a discharge case.
8 By the Arbitrator 96		The parties have, in a very diligent
9 Ellen Kazimer 98 107 110		fashion, and I congratulate them for this,
10 By the Arbitrator 111		done their homework. They've identified
11 Nicole Carlton 113 142 166 171		several Joint Exhibits. Joint Exhibit A being
12 By the Arbitrator 174		the collective bargaining agreement running
13 ---		from 14-1-13 through 3-31-16. Joint Exhibit
14 UNION WITNESSES:		B, which is the citizens complaint which I
15 James Marquardt 180 195 221/227/234 223/232		believe probably started the investigation of
16 By the Arbitrator 228		this case dated 2-15-16. Joint Exhibit C is
17 Linda Burns 237 239		the -- this is the citizens what? Report of
18 ---		the commission is it? Can you identify that
19		again?
20		21 MR. HOBAN: The report of the --
21		22 THE ARBITRATOR: OCC.
22		23 MR. HOBAN: -- Office of
23		24 Integrity Control, Compliance and Employee
24		Accountability.
25		25 THE ARBITRATOR: They are the ones

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<p style="text-align: right;">Page 14</p> <p>1 Union believes to be unfair and disparate 2 treatment. Two union members contacted a CWA 3 Local 4340 chief steward to discuss alleged 4 issues with a CWA 4340 union member.</p> <p>5 After the City received information 6 regarding the issue and with substantial media 7 pressure took action against the Grievant 8 Jamie Marquardt, an action that the Union 9 believes to be unfair and disparate from 10 previous actions taken by the City against 11 other city employees.</p> <p>12 The Grievant had over 20 years of 13 service at the time of the incident and no 14 history of similar infractions. The Union 15 intends to show that the Employer has 16 historically taken no or lesser actions on 17 multiple occasions against city employees for 18 similar occurrences. The harshest action 19 taken by the City for a similar offense was a 20 ten day suspension that was later reduced to 21 three days. But here in this case the 22 Grievant was terminated.</p> <p>23 The Union believes that what we're 24 discussing today is a sensitive subject, and 25 while the Union does not agree with what is</p>	<p style="text-align: right;">Page 16</p> <p>1 Q How long have you been employed by the City of 2 Cleveland? 3 A Since 2007. 4 Q And how long have you been a paramedic? 5 A Eight, nine years. 6 Q And what are your duties; primarily EMS 7 response? 8 A Correct. 9 Q So you respond with the squad to EMS calls? 10 A Yes. 11 Q Can you describe for me your understanding of 12 what the relationship of EMS to the community 13 is; what the nature of it is? 14 A Taking care of injured, ill patients, 15 physically, emotionally. I mean, just 16 responding, helping people. 17 Q Do you try to maintain a relationship with the 18 citizens that you serve? 19 A Yes. 20 Q And what is the nature of that relationship 21 that you try to maintain? 22 A What do you mean? Like positive. Positive -- 23 I mean, good standing. I mean, we go in their 24 houses and we interact with them and we try to 25 get along with them.</p>
<p style="text-align: right;">Page 15</p> <p>1 stated in the posts on social media we can 2 argue over the difference in treatment between 3 our member and several other city employees.</p> <p>4 THE ARBITRATOR: Thank you very much.</p> <p>5 Are you ready to move forward?</p> <p>6 MR. HOBAN: I am indeed, sir.</p> <p>7 MARK BARRETT</p> <p>8 Of lawful age, being first duly sworn, was examined 9 and testified as follows:</p> <p>10 DIRECT EXAMINATION</p> <p>11 By Mr. Hoban:</p> <p>12 Q Good morning, Mark. How are you?</p> <p>13 A Good.</p> <p>14 Q Mark, could you do me a favor and please state 15 your full name for the record and spell your 16 last name for the court reporter?</p> <p>17 A Mark Patrick Barrett, B-a-r-r-e-t-t.</p> <p>18 THE ARBITRATOR: Is that M-a-r-c or 19 K?</p> <p>20 THE WITNESS: K.</p> <p>21 THE ARBITRATOR: Thank you.</p> <p>22 Q And, Mark, where are you currently employed?</p> <p>23 A City of Cleveland.</p> <p>24 Q And in what position?</p> <p>25 A Paramedic.</p>	<p style="text-align: right;">Page 17</p> <p>1 THE ARBITRATOR: What was that last 2 part?</p> <p>3 THE WITNESS: Try to get along with 4 them.</p> <p>5 THE ARBITRATOR: Keep your voice up.</p> <p>6 THE WITNESS: I'm sorry.</p> <p>7 Q So we can capture everything you're saying.</p> <p>8 A I'm actually quite loud.</p> <p>9 Q You're doing good.</p> <p>10 A Are you familiar with Jamie Marquardt?</p> <p>11 A Yes.</p> <p>12 Q And how are you familiar with him?</p> <p>13 A He was a -- when I started he was in the field 14 and he became sergeant and then later became a 15 captain.</p> <p>16 Q Had you ever worked under his supervision?</p> <p>17 A I believe so, yes.</p> <p>18 Q What was the nature of your relationship? Was 19 it just a work acquaintance or were you good 20 friends?</p> <p>21 A Just work acquaintance.</p> <p>22 Q Were you a friend of Mr. Marquardt's on 23 Facebook?</p> <p>24 A No.</p> <p>25 Q I'm going to direct your attention to events</p>

5 (Pages 14 to 17)

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<p style="text-align: center;">Page 18</p> <p>1 of February 15th of 2016.</p> <p>2 A Okay.</p> <p>3 Q Did you report for duty that morning?</p> <p>4 A Yes.</p> <p>5 Q So you worked that day?</p> <p>6 A Yes.</p> <p>7 Q What time do you typically report?</p> <p>8 A Seven. Between six and seven.</p> <p>9 Q And where were you working that day?</p> <p>10 A Medic 7, 37th and Woodland.</p> <p>11 Q At any time on February 15, 2016 were you made aware of a Facebook post that was attributed to Mr. Marquardt?</p> <p>12 A Yes.</p> <p>13 Q By whom were you made aware of that post?</p> <p>14 A The crew before. Again, I believe it was Matt Sykes and his partner, but I'm not sure. It was whoever the night shift crew was.</p> <p>15 Q Were the night crew shift discussing the post?</p> <p>16 A Yes.</p> <p>17 Q Were they discussing it with anybody else other than you?</p> <p>18 A I believe Fire was at the table because that's -- typically sometimes there is firemen at the table in the morning. So there is a</p>	<p style="text-align: center;">Page 20</p> <p>1 said.</p> <p>2 Q What effect did the post have on you?</p> <p>3 A I mean, I think I read it and I was like just surprised that it said that.</p> <p>4 Q Did it give you any concerns?</p> <p>5 A That he could get fired for writing that.</p> <p>6 Q Anything else? Anything related to your duties?</p> <p>7 A I mean, as far as like what I did after that?</p> <p>8 Q Well, in terms of how you conducted your duties with a post like this being made?</p> <p>9 A I'll withdraw the question.</p> <p>10 Q Was there any other discussion after you first saw this post with other EMS members?</p> <p>11 A Throughout the day.</p> <p>12 Q On that day?</p> <p>13 A Yeah. It was something that people talked about.</p> <p>14 Q Were they just talking about it at Medic 7?</p> <p>15 A No, I mean, it was throughout the day. I mean, it's somewhat surprising, so --</p> <p>16 Q Did you take any actions after you saw the post?</p> <p>17 A Yes.</p>
<p style="text-align: center;">Page 19</p> <p>1 chance that yes, there could have been firemen and probably another EMS and my partner and I. (City Exhibit 1 marked for identification.)</p> <p>2 Q I'm handing you what I've marked for identification purposes as CX-1, that's for City Exhibit 1. I'll ask you to take a look at that and tell me whether you're familiar with it.</p> <p>3 A Yes.</p> <p>4 Q How are you familiar with it?</p> <p>5 A This was the post that I was shown by that leaving crew, the night crew.</p> <p>6 Q And how were you shown this?</p> <p>7 A Except for the bottom.</p> <p>8 Q Except for the bottom part. You were just shown the top part?</p> <p>9 A Yeah.</p> <p>10 Q How were you shown it, on a phone or a laptop?</p> <p>11 A A phone.</p> <p>12 Q What was your reaction to the post when you first saw it?</p> <p>13 A It was surprising.</p> <p>14 Q And why was it surprising?</p> <p>15 A Just because of the nature of it and what it</p>	<p style="text-align: center;">Page 21</p> <p>1 Q What did you do?</p> <p>2 A I tried to make contact on an untaped line with -- well, let me back up. I called Ellen to get --</p> <p>3 Q Ellen is Captain Kazimer?</p> <p>4 A I'm sorry, yes, Captain Kazimer to get Mike's private number.</p> <p>5 Q Mike is Captain Threat?</p> <p>6 A Yes. His union rep, to try to have Mike get in contact with Jamie because I personally didn't have that capability, to have Mike have Jamie remove the post so he didn't get in trouble.</p> <p>7 Q Did you ultimately speak with Captain Threat?</p> <p>8 A Yes.</p> <p>9 Q And what was the nature of your conversation?</p> <p>10 A Just explaining to him what had been posted and that he should get in contact with him, and as I said before, he talks a lot so there -- it was probably -- it could have been a long conversation, but the gist of it was to have him take it down so he didn't get in trouble because it looked bad.</p> <p>11 Q You say it looked bad. Did you tell Captain Threat that?</p>

6 (Pages 18 to 21)

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<p style="text-align: right;">Page 22</p> <p>1 A Yeah.    2 Q Why did you conclude it looked bad?    3 A Just because of what it said. I mean --    4 Q If you're finished that's fine.    5 A Yeah, I mean just because it looked bad.    6 Q Did you express any concerns about safety    7 issues to Captain Threat as a result of the    8 post?    9 A I mean, again, I'm not -- my point of calling    10 was so it would be removed. As far as    11 specific safety issues, I don't remember, no.    12 Q Okay. All right. Do you recall if Captain    13 Threat had seen the post at the time you spoke    14 with him?    15 A I don't think so. I mean, if he had he didn't    16 say he had. He seemed surprised. I don't --    17 I don't remember if I read it to him or gave    18 him the gist, because I wouldn't have had    19 access to it.    20 MR. PASSALACQUA: The Union has an    21 objection. The conversation that took place    22 between the witness and Mr. Threat was between    23 union members. He identified that he was    24 contacting Mr. Threat because he was a union    25 official not because of his affiliation with</p>	<p style="text-align: right;">Page 24</p> <p>1 post when you called him?    2 A No.    3 Q Okay. Thank you. I have nothing further.    4 Thank you, Mark.    5 CROSS-EXAMINATION    6 By Mr. Passalacqua:    7 Q Good morning.    8 A Good morning.    9 Q Do you have Facebook?    10 A Yes.    11 Q Okay. On Facebook does an individual when    12 they make a post have to type in their name or    13 is that something that just automatically    14 happens?    15 A Just automatically happens.    16 Q So someone could make a post but they don't    17 type in the individual's name to show    18 ownership? Someone could posts on another    19 person's account; it's a potential if you have    20 access to it?    21 A Yes.    22 Q And you stated that you used Facebook through    23 a phone?    24 A The way I saw it was through somebody's phone.    25 I was one of the later people to get a smart</p>
<p style="text-align: right;">Page 23</p> <p>1 the City of Cleveland employment, therefore    2 it's Union conversation.    3 THE ARBITRATOR: Go ahead.    4 MR. HOBAN: There are two    5 different unions, one is the C.A.R.E. Union    6 and the other one is CWA.    7 MR. PASSALACQUA: But he identified    8 that he was contacting Captain Threat because    9 of his position as a union rep.    10 MR. HOBAN: But he wasn't his    11 union rep, number one. Number two, I'm not    12 aware of any Union confidentiality or union --    13 what's the word I'm looking for -- privilege    14 that exists, at least in the State of Ohio.    15 THE ARBITRATOR: Yeah, I'm not aware    16 of any either. And, you know, I'm going to    17 allow the testimony. Overrule the objection.    18 I mean, I think it was a matter of what he    19 thought should happen rather than any    20 necessarily privileged conversation about    21 defending anyone. Just take it down I guess.    22 Go ahead.    23 Q I'm sorry, Mark. I'll restate the question    24 very quickly. Did you understand, was it your    25 conclusion that Captain Threat had seen the</p>	<p style="text-align: right;">Page 25</p> <p>1 phone.    2 Q I understand. So do you use your Facebook    3 through your phone?    4 A I do now, yes.    5 Q When you use Facebook through your phone do    6 you have to sign in each time or is it    7 automatically signed in for you?    8 A Now it's automatically signed in for you.    9 Q Because you have that?    10 A Yes.    11 Q Are you a friend of Jamie Marquardt on    12 Facebook?    13 A No.    14 Q So you had no access to see any post on Jamie    15 Marquardt's Facebook page?    16 A I don't believe so, no. It's not a public    17 post, no.    18 Q Are you aware if Jamie Marquardt was    19 identified as a City of Cleveland employee, an    20 EMS captain or anything identifying him    21 associated with the City of Cleveland?    22 A I don't know. I don't think so. I mean, this    23 is -- this is the post. (Indicating.)    24 Q Okay. Have you worked with Jamie before in    25 the field?</p>

7 (Pages 22 to 25)

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<p style="text-align: right;">Page 30</p> <p>1 By Mr. Hoban:  2 Q Mark, sort of taking from the question that  3 Dave asked.  4 A About Guy?  5 Q No, I'll explain.  6 A Okay.  7 Q Are you aware of any City of Cleveland  8 employee who posted that they were upset that  9 they didn't get the chance to kill a 12 year  10 old boy on Facebook?  11 A No.  12 Q Did, to your knowledge, Sergeant Woyma ever  13 post --  14 A The police officer?  15 Q The police officer ever post that he was  16 disappointed or upset that he didn't get to  17 kill a 12 year old boy?  18 A No.  19 Q To your knowledge, did Mr. Estergall ever post  20 on Facebook or Twitter or any social media  21 that he was disappointed that he didn't get  22 the chance to kill a 12 year old boy?  23 A No. I'm friends with Guy.  24 Q Thank you.  25 THE ARBITRATOR: Anything else?</p>	<p style="text-align: right;">Page 32</p> <p>1 you think?  2 A I believe so. I'm usually early.  3 Q Now, I think you testified -- I want to make  4 sure I understand this -- that at that time  5 your phone wasn't smart enough to have social  6 media?  7 A I don't think I had a smart phone at the time  8 because I was one of the late arrivers. I had  9 a flip phone for a long time. So I don't  10 believe I had a smart phone, but I can't say  11 one way or the other. But it wasn't on my  12 phone, that I can --  13 Q I understand. So how did you become aware of  14 this post? The top half you mentioned too of  15 that posting?  16 A It was -- again, I believe it was Matt Sykes  17 but I'm not sure. At the time he would have  18 been on night shift.  19 Q Okay.  20 A And I think that's the person that showed me  21 it.  22 Q Was it printed out like that?  23 A No. No, it was --  24 Q On his phone?  25 A Yeah.</p>
<p style="text-align: right;">Page 31</p> <p>1 RECROSS-EXAMINATION  2 By Mr. Passalacqua:  3 Q There was conversation regarding the remainder  4 of the day that the posts that were on Jamie's  5 Facebook page were being discussed. Was there  6 any hindrance of service that day? Was there  7 any interaction with the public that day  8 regarding service? Was there any loss of  9 quality of service because of that?  10 A No.  11 Q Okay. Thank you.  12 EXAMINATION  13 By The Arbitrator:  14 Q Just a real quick question because you  15 testified to this, I want to make sure I  16 understand how it occurred. On the 15th of  17 February, 2016, what shift -- do you remember  18 what you were working?  19 A I would have been A shift.  20 Q A shift meaning?  21 A We start at seven and we continue until seven.  22 Q Seven to seven?  23 A At times I came in a little bit early and  24 worked out.  25 Q So that day did you come in and work out, do</p>	<p style="text-align: right;">Page 33</p> <p>1 Q On his phone?  2 A Again, I'm not sure it was Matt Sykes.  3 Q But someone showed you the posting on the  4 phone?  5 A Correct.  6 Q Okay. That's how you became aware?  7 A Correct.  8 Q Okay. All right. That's what I wanted to  9 know. That's all. I wanted to make sure I  10 understood that. Thank you.  11 A I have a smart phone now.  12 MR. HOBAN: Nothing further.  13 Thank you, Mark.  14 (Witness excused.)  15 THE ARBITRATOR: Off the record.  16 (Discussion off the record.)  17 GREGORY HYDE  18 Of lawful age, being first duly sworn, was examined  19 and testified as follows:  20 DIRECT EXAMINATION  21 By Mr. Hoban:  22 Q Greg, good morning.  23 A Good morning.  24 Q Greg, could you do me a favor and please spell  25 your first and last name for the record, state</p>

9 (Pages 30 to 33)

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<p style="text-align: right;">Page 34</p> <p>1 and spell your first and last name.    2 A First name is Gregory, G-r-e-g-o-r-y, Hyde,    3 H-y-d-e.    4 Q Greg, where are you currently employed?    5 A City of Cleveland Division of EMS.    6 Q And how long have you been employed with the    7 Division of EMS?    8 A Twenty-eight years.    9 Q And what position do you currently hold?    10 A I'm a field paramedic and field training    11 officer.    12 Q How long have you been a paramedic?    13 A Twenty-seven years.    14 Q Where are you currently assigned?    15 A Medic 23.    16 Q And is that where you were assigned on    17 February 15, 2016?    18 A That would have been. I believe that    19 particular day was an overtime shift for me,    20 but normal base is there at Madison. I cannot    21 recall which overtime shift I would have been    22 on that day. I work a fair amount of    23 overtime.    24 THE ARBITRATOR: For the record, is    25 that west side?</p>	<p style="text-align: right;">Page 36</p> <p>1 A There is. I mean, in my experience if you go    2 in as a nonthreatening impartial type person    3 your people tend not to be as aggressive with    4 you. There have been incidents where we've    5 been in places where people have been a little    6 hostile. Other people as bystanders tell them    7 to knock it off. Hey, they are there to help    8 you, leave them alone. So that lends itself    9 to, you know, the community perception that    10 they understand we're there not to cause them    11 grief but just to help them as much as we can.    12 Q Are you familiar with Jamie Marquardt?    13 A I am.    14 Q How are you familiar with him?    15 A When he was a field paramedic we worked    16 overtime shifts together. Then he became a    17 sergeant through the office with supplies,    18 other things with that. Then he was promoted    19 to captain and he was on my shift. He was one    20 of our shift supervisors.    21 Q Are you a Facebook friend or have you been a    22 Facebook friend with Jamie Marquardt?    23 A We were Facebook friends at a period of time,    24 yes.    25 Q Have you ever had sort of casual conversations</p>
<p style="text-align: right;">Page 35</p> <p>1 THE WITNESS: Yes, it's West 98th    2 and Madison. It's Fire Station 23.    3 THE ARBITRATOR: I just wanted to get    4 my geographic bearings here. I got it.    5 Q In your almost three decades with EMS -- and I    6 say that with congratulations, can you    7 describe -- or based on your almost three    8 decades with EMS can you describe the    9 relationship between EMS and the community?    10 A It's always been one of trust. The community    11 trusts us to take care of them and do that    12 well. It's always been an impartial    13 relationship. We don't take sides or judge.    14 We are there for the community, to take care    15 of the community as best as we can.    16 It's one where we, you know -- like I    17 say, you don't take sides with things. We're    18 just there to impartially take care of folks.    19 They have a trust that they know we're there    20 to take care of them no matter what their    21 station or position in life is or what    22 transpired.    23 Q Is there any relationship between that trust    24 and the safety of EMS members, in your    25 experience?</p>	<p style="text-align: right;">Page 37</p> <p>1 with Mr. Marquardt?    2 A Oh, many conversations with him.    3 Q And what were the nature of those    4 conversations, just generally?    5 A They ran the gamut from how is the weather    6 today. We always had a good-natured    7 relationship with teasing and joking and    8 stuff. And then we also had conversations    9 about our various views on politics or life or    10 different things. He was at one end, I was at    11 the other end. I think we always had a mutual    12 agreement that we agreed to disagree for most    13 of those, but I would always say it has been a    14 cordial relationship.    15 Q Drawing your attention to February 15, 2016,    16 did you have a Facebook post of    17 Mr. Marquardt's brought to your attention on    18 that day?    19 A Yes.    20 Q I'll direct your attention to right there on    21 the table in front of you there is something    22 marked as CX-1. I'll ask you to take a look    23 at that. Do you recall seeing or being made    24 aware of that particular post on February 15,    25 2016?</p>

10 (Pages 34 to 37)

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<p style="text-align: right;">Page 38</p> <p>1 A I do.</p> <p>2 Q And do you know how you became aware of it?</p> <p>3 A In all honesty, it was either somebody had sent me a screen shot of it or I seen it on my Facebook page. One or the other. I don't remember exactly how it came to my attention but I know eventually I did see it on my – when I saw it I was able to see it on my Facebook as well. I'm not sure if somebody sent it to me and said did you see this or in general looking through your Facebook each morning like half the world does I ran across it.</p> <p>14 Q Now, you testified previously that you were working on February 15th; is that correct?</p> <p>16 A Yes.</p> <p>17 Q Were you working an a.m. shift or a p.m. shift?</p> <p>19 A It was a day shift. It was an overtime shift.</p> <p>20 Q So starting at 7:00 in the morning?</p> <p>21 A Yes. I'm not a day shifter by nature. I like my nights.</p> <p>23 Q Do you recall if you saw or were made aware of City Exhibit 1 early in the shift or later in the day?</p>	<p style="text-align: right;">Page 40</p> <p>1 Because again, once you're in that uniform it's the same, it's not -- you know, my opinion is going to be what her opinion is, what his opinion is. They don't see the Division has differences of opinion. You're just the EMS person and they kind of see that uniform and that's everyone's opinion.</p> <p>8 Q My understanding of your response is that EMS could be painted with the sort of broad brush?</p> <p>10 A The broad brush of this is the consensus of opinion among the members of EMS.</p> <p>12 Q Did the content of the post give you any concerns about the performance of your duties?</p> <p>14 A Just in that I would want to be more aware of my surroundings and stuff. The potential that if somebody had seen this or knew of this, could we face potential aggression with families or people that we interact with? Basically in that neighborhood where I generally work is the neighborhood where the shooting had transpired and family members of Tamir Rice lived in that area.</p> <p>19 Q Were you familiar with the other people who were friends of Mr. Marquardt's on Facebook in February of 2016?</p>
<p style="text-align: right;">Page 39</p> <p>1 A It was early. It was near 7:00, 7:30. It was right at the start of the day.</p> <p>3 Q What was your reaction when you saw it?</p> <p>4 A I was -- it was mixed. One, I definitely do not agree with the content of what the message was. I was kind of concerned about what the message was, and then I was concerned for Mr. Marquardt in that if he had put something up like that, because he was usually a little better about what he would put up there about what his state of mind was when he had placed it up there. So I reached out to one of the shift captains for a couple concerns.</p> <p>14 Q So you had concerns about Mr. Marquardt's well-being?</p> <p>16 A Yes.</p> <p>17 Q In the first instance, did you have any concerns about the effects of the post on EMS?</p> <p>19 A Yes, my concern was because that was such a hot topic at the time if the community had seen that somebody from the Division had those thoughts what would the community's response be to that. How would it translate into how they perceive us, how do they deal with us, would there be some aggression or animosity?</p>	<p style="text-align: right;">Page 41</p> <p>1 A Yes.</p> <p>2 Q Were there other EMS members among his Facebook friends?</p> <p>4 A Yes.</p> <p>5 Q Were there police or fire employees of the City among his Facebook friends?</p> <p>7 A As far as I know, yes. Most of us have friends within all the divisions and in the civilian spectrum as well.</p> <p>10 Q Now, you mentioned speaking or contacting an EMS captain. Before we get there, let me ask you this question.</p> <p>13 (City Exhibit 2 marked for identification.)</p> <p>15 Q You testified that you saw City Exhibit 1 fairly early on the morning of February 15th. I'm handing you what I've marked for identification purposes as City Exhibit 2. That's CX-2. I'm going to ask you to quickly take a look at that and, Greg, if you can tell me, did you see this post?</p> <p>22 A This particular post I did not. And as we had talked, most likely the individual who had made a previous post, there is various levels of -- they call it security or privacy with</p>

11 (Pages 38 to 41)

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1	Facebook.		
2	MR. PASSALACQUA: I would have an		
3	objection because he did not previously see		
4	this. He's making an opinion.		
5	THE ARBITRATOR: Yeah, well —		
6	A The particular reply —		
7	THE ARBITRATOR: Hold on. Are you		
8	going to get it through another witness?		
9	MR. HOBAN: I'll get it through		
10	another witness. I'm just showing that this		
11	was all he saw and that's all I need.		
12	Q Thank you, Greg. That's on me, not on you.		
13	THE ARBITRATOR: Okay.		
14	Q After you saw the post did you discuss it with		
15	any other EMS members on the 15th of February?		
16	A We did.		
17	Q How many would you say?		
18	A Roughly half dozen, dozen folks that we -- I		
19	remember the bulk of the conversations		
20	occurred at Metro. That's a hospital that		
21	receives a lot of our ambulances. It was the		
22	hot topic all morning and afternoon long.		
23	Q So it's your recollection that many EMS		
24	members had seen it?		
25	A Yes.		
		Page 43	Page 45
1	Q And were aware of it?		
2	A Yes.		
3	Q What was the nature of discussions you were		
4	involved with with other EMS members about the		
5	post?		
6	A Our discussions were — and everybody pretty		
7	much had the same mindset — what was he		
8	thinking when he put that up and what happens		
9	if people see this and know that it came from		
10	somebody that works for us.		
11	Q You testified previously that you contacted		
12	the supervisor about the post?		
13	A Yes.		
14	Q Can you describe that for us please?		
15	A I had sent a text to Captain Kazimer to give		
16	me a call on an untaped line because I wanted		
17	to have a private conversation with her. And,		
18	again, my first concern was for Jamie, to make		
19	sure what he had said — what was his mindset		
20	when he was saying that. Being somebody on		
21	his shift I wasn't comfortable trying to get		
22	ahold of him to say hey, are you okay. I		
23	figured one of his co-workers, peers would be		
24	better for that. So we brought up our concern		
25	for him. And in the course of that discussion		
			period of time some years ago?
			2 A Correct.
			3 Q And you have seen other of his Facebook posts?
			4 A I have.
			5 (City Exhibit 3
			6 marked for identification.)
			7 Q I'm handing you what I've marked for
			8 identification purposes as CX-3, that's City
			9 Exhibit 3. CX-3 is a three page document.
			10 Front page says, "Jamie Marquardt" at the top.
			11 Well, actually at the top it says, "Like,
			12 comments, share." It appears to be a screen
			13 shot of Facebook posts. The top post says
			14 "Jamie Marquardt," says "February 8 at
			15 12:54 a.m." Are you familiar with City
			16 Exhibit 3?
			17 A I am.
			18 Q And what is it?
			19 A It's a series of screen shots that I forwarded
			20 to you that I had taken from -- of posts from
			21 Mr. Marquardt's Facebook posts.
			22 Q There is no year in the dates but there are
			23 months. Are these posts from 2016?
			24 A They would be.
			25 Q So the February 8th post is approximately a

12 (Pages 42 to 45)

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<p style="text-align: right;">Page 70</p> <p>1 relationship with them.  2 THE ARBITRATOR: As long as you stay  3 within the facts it's overruled from that  4 standpoint.  5 I understand your objection but let's  6 deal with just facts as a supervisor.  7 MR. PASSALACQUA: I understand but I'd  8 be remiss if --  9 MR. HOBAN: No, got you.  10 THE ARBITRATOR: You're doing your  11 job.  12 MR. HOBAN: No worries.  13 MICHAEL THREAT  14 Of lawful age, being first duly sworn, as  15 hereinafter certified, was examined and testified as  16 follows:  17 DIRECT EXAMINATION  18 By Mr. Hoban:  19 Q Good morning, Captain.  20 A Good morning.  21 Q Captain could you please state your full name  22 and spell your last name for the record?  23 A Michael Threat, T-h-r-e-a-t.  24 Q Captain, where are you currently employed?  25 A City of Cleveland in the Emergency Medical</p>	<p style="text-align: right;">Page 72</p> <p>1 coordinating with any other entity, whether it  2 be Cleveland Public Power, at the direction --  3 directly under the commissioner via either  4 directly or through the deputy commissioner.  5 So I get most of my orders directly from my  6 two superiors.  7 Q Do you respond to EMS calls yourself as a  8 captain?  9 A Yes, I do.  10 Q Do you respond to all the EMS calls that  11 happen when you're working or just particular  12 calls?  13 A It depends. As many as I can get to.  14 Q When you respond to a call do you have any  15 particular duties? Do you provide hands-on  16 treatment as a regular matter or do you assist  17 the EMS crew in other ways?  18 A That depends also. Sometimes I'm there first,  19 and if I'm on scene first I do provide direct  20 patient care. The other situation that I  21 would provide direct patient care is if the  22 patients are more overwhelming than the  23 resources that we have available on scene. So  24 every now and then in addition to the medics,  25 the fire department I would have to provide</p>
<p style="text-align: right;">Page 71</p> <p>1 Service.  2 Q How long have you been employed with Cleveland  3 EMS?  4 A Since July 2, 1992.  5 Q So going on 26 years?  6 A Yes.  7 Q And are you a paramedic?  8 A Yes, I am.  9 Q And how long have you been a paramedic?  10 A Since July of 1993.  11 Q You're an EMS captain. When were you promoted  12 to the rank of captain?  13 A Very difficult career here. I have -- I got  14 promoted to captain the first time -- or  15 excuse, EMS supervisor the first time in '94.  16 October 4, 1994 to August the 26th of 1996,  17 and the second time November of 2007.  18 Q You've been a captain since November 2007?  19 A Yes.  20 Q What are the duties of an EMS captain?  21 A Well, I'm responsible for shift coverage in  22 the paramedic ranks, providing resource  23 allocations for emergency calls, supervising  24 the 911 center, interactions with hospitals,  25 other public safety forces, police and fire,</p>	<p style="text-align: right;">Page 73</p> <p>1 patient care.  2 Q Do you engage in any liaison with the public at  3 a scene in assistance of EMS responders?  4 A Could you be more specific?  5 Q Talk to family members while EMS members are  6 providing treatment for a patient?  7 A Yes. Yes, I do all the time.  8 Q I'm going to direct your attention to events  9 of 15, February, 2016. Were you working that  10 day?  11 A Yes, sir.  12 Q February 15, 2016?  13 A Yes, 2016. Yes, I was.  14 Q And in what capacity were you working?  15 A I was the communications supervisor for EMS.  16 Q So you were working in dispatch?  17 A Yes, sir.  18 Q Was there another captain on duty at that time  19 as well?  20 A Yes.  21 Q And who was that?  22 A Captain Ellen Kazimer.  23 Q What were her duties for the day?  24 A She was the field captain making sure the  25 staff was available and had the resources that</p>

19 (Pages 70 to 73)

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1 they needed. We were the only two on duty I'm  
2 pretty sure.  
3 Q And just for our understanding solely, as I'm  
4 understanding it, and I want you to correct me  
5 if I'm wrong, the captain working in dispatch  
6 is in dispatch. I don't want to say static,  
7 but you're in a particular location?  
8 A Yes.  
9 Q And the field operations captain might move  
10 between dispatch or be in a mobile unit at  
11 various places in the city; is that accurate?  
12 A Yes. Yes.  
13 Q Was there a point at which Captain Kazimer  
14 contacted you about an EMS member trying to  
15 contact you?  
16 A Yes, sir.  
17 Q Can you describe that for us?  
18 A At the beginning of the shift Captain Kazimer  
19 called me and said that Paramedic Mark Barrett  
20 wanted to talk to me.  
21 Q I'm sorry to interrupt, Captain. When you  
22 said the beginning of your shift, when did the  
23 shift begin?  
24 A Shift start is six in the morning.  
25 Q For captains?

1 A Yes. But when I say beginning, the beginning  
2 portion of the shift.  
3 Q I understand.  
4 A So morning time.  
5 Q Within the first couple hours of the shift?  
6 A Yes.  
7 Q Please continue.  
8 A So she contacted me and stated that Mark  
9 Barrett, Paramedic Mark Barrett wanted to talk  
10 to me on an untaped line and it was in  
11 reference to a personal issue. So I finished  
12 up whatever I was doing and she provided me  
13 with a phone number and I called Paramedic  
14 Mark Barrett.  
15 Q And what did you discuss with Mr. Barrett?  
16 A He at that time stated that it was a personal  
17 matter, it was concerning a Facebook post and  
18 he said it was offensive, an offensive post.  
19 He stated that it was a post that was seen on  
20 Captain Marquardt's page.  
21 Q Had you seen the post at the time when first  
22 discussed it with Mr. Barrett?  
23 A No, I don't have Facebook.  
24 Q Did Mr. Barrett make any requests of you with  
25 regard to the post?

1 A He stated that he was just contacting me as a  
2 union rep because he knew that I was the union  
3 – what he termed union president. I had  
4 corrected him. No, I'm not the union  
5 president, I'm the steward.  
6 He stated I know you're the union  
7 contact for the captains. And he didn't  
8 really elaborate about the post other than he  
9 was deeply offended by it.  
10 Q Did you have any communications with other EMS  
11 members on February 15, 2016 about the post?  
12 A Close to my lunchtime Captain Kazimer reported  
13 to the RED Center and informed me –  
14 Q The RED Center is dispatch?  
15 A Yes, radio emergency dispatch. It's an  
16 acronym.  
17 Q R-e-d?  
18 A R-e-d, yes.  
19 Q Thank you.  
20 So Captain Kazimer reported in from the  
21 field to radio emergency dispatch and told you  
22 what?  
23 A By that time she came up there. So she  
24 physically entered the building and told me  
25 that a paramedic was trying to reach me,

1 wanted to be connected with me. She had his  
2 phone number, I didn't. I was in the process  
3 of taking a refusal from a citizen and  
4 finished up the refusal. Not a refusal, a  
5 complaint. Finished up the complaint and then  
6 we exited the dispatch floor and contacted the  
7 employee.  
8 Q And who was that employee?  
9 A Gregory Hyde.  
10 Q And how did you contact the employee?  
11 A Ellen's cell phone. Just put it on speaker.  
12 We went into the conference room so that it  
13 was more private.  
14 Q And what did you discuss, you and Captain  
15 Kazimer, with Mr. Hyde?  
16 A Well, he immediately started talking about a  
17 Facebook post and it being something that  
18 could possibly affect on-scene activity of the  
19 citizens. He stated that it was a racially  
20 inappropriate post and that it could be  
21 volatile. I think that's the word he used.  
22 I'm not sure. But that's what I got out of  
23 it.  
24 He said that he wanted to remain  
25 anonymous, as did Mark Barrett. He also

<p style="text-align: right;">Page 78</p> <p>1 stated that, you know, you're the Union guy    2 and I just wanted to, you know, get in touch    3 with you to try to get this taken care of.    4 And he also stated that, you know, it was    5 dangerous.</p> <p>6 Q Dangerous in regard to him personally or EMS    7 members?</p> <p>8 A Well, what he alluded to was the civil unrest    9 that was present at the time. And he also    10 stated that it could be damaging to the    11 reputation of the City, meaning because    12 everybody in EMS kind of gets credit for the    13 bad news that pops in about the Division, so    14 something hits the media, you know, it's going    15 to be bad for everybody. That's what he    16 expressed.</p> <p>17 So, you know, at that time I hung up    18 with him -- well, no, take that back. I    19 advised him that if it is what you say it is    20 I'm going to have to report it to my    21 superiors.</p> <p>22 Q And that was in your capacity as an EMS    23 captain?</p> <p>24 A Yes.</p> <p>25 Q A supervisor?</p>	<p style="text-align: right;">Page 80</p> <p>1 Q And you accessed that on her phone?    2 A On her phone.    3 Q On her phone. All right.    4 What was your reaction when you saw the    5 post?    6 A I just thought it was bad. It was very bad is    7 what I said. And, you know, I need to report    8 this to my superiors.    9 Q Why did you feel it was important to report it    10 to your superiors?    11 A Because my job is to report anything that    12 could be high profile, damaging or unsafe.    13 Q Did you, in your capacity as an EMS captain    14 and with your years of experience, conclude    15 that this post may represent a threat to the    16 safety of the EMS members?    17 A I didn't conclude it but it was expressed by a    18 paramedic, and to make sure that whatever I    19 felt about it wasn't going to be the important    20 thing, just making sure the safety was going    21 to be maintained, that's why I reported it.    22 Q To whom did you report it?    23 A Deputy Commissioner David Miller.    24 Q Deputy commissioner of EMS?    25 A Yes.</p>
<p style="text-align: right;">Page 79</p> <p>1 A Yes. And he asked that he remain anonymous.    2 I told him that I would try to keep him    3 anonymous. It was very important to me for    4 both members to stay anonymous, both members    5 of my shift to stay anonymous, but, you know,    6 obviously I wasn't able to keep them    7 anonymous.</p> <p>8 Q Had you seen the post before you spoke with    9 Mr. Hyde?</p> <p>10 A No.</p> <p>11 Q I'm going to direct your attention to City    12 Exhibit 1. It should be on the table there in    13 front of you. It says CX-1 in the lower    14 right-hand corner. Do you have it there, sir?</p> <p>15 A Yes, I do.</p> <p>16 Q All right. If you can just look at that for a    17 moment. I'll ask did you ultimately see the    18 post that Mr. Hyde and Mr. Barrett referred    19 to?</p> <p>20 A Yes.</p> <p>21 Q And was this the post that you saw?</p> <p>22 A I'm pretty sure it was, yes.</p> <p>23 Q How did you see it? And by that I mean on a    24 phone, on a laptop, on a computer?</p> <p>25 A I saw it on Captain Kazimer's Facebook page.</p>	<p style="text-align: right;">Page 81</p> <p>1 Q I'm going to direct your attention to CX-2.    2 It should be on the table there in front of    3 you. Have you ever seen this?</p> <p>4 A I've seen it before.</p> <p>5 Q And did you see it on February 15th?</p> <p>6 A I'm pretty sure I did not.</p> <p>7 Q How did you see it or where did you become    8 aware of it first?</p> <p>9 A I'm pretty sure it was in the hearing for    10 Captain Marquardt.</p> <p>11 Q In the predisciplinary hearing?</p> <p>12 A Predisciplinary hearing.</p> <p>13 Q And you hadn't seen it prior to that?</p> <p>14 A No, I had not.</p> <p>15 Q Thank you, sir. I appreciate it.</p> <p>16 THE ARBITRATOR: Okay. Cross?</p> <p>17 CROSS-EXAMINATION</p> <p>18 By Mr. Passalacqua:</p> <p>19 Q Good morning, Mike.</p> <p>20 A Good morning, sir.</p> <p>21 Q So you stated you don't use Facebook, you    22 don't have Facebook?</p> <p>23 A No, I do not.</p> <p>24 Q So then you wouldn't have an understanding of    25 friend or nonfriends or anything like that</p>

21 (Pages 78 to 81)

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1	need to let me superiors know.	1	hands-on care? Do you do liaison with the
2	THE ARBITRATOR: Okay. Fair enough.	2	public on behalf of the treating crew? Can
3	That's it. Thank you.	3	you describe that for us?
4	ELLEN KAZIMER	4	A As little hands-on care because our role is
5	Of lawful age, being first duly sworn, was examined	5	more globally to observe everything that is
6	and testified as follows:	6	going on and help to facilitate anything that
7	DIRECT EXAMINATION	7	might need to be, whether that's packed up,
8	By Mr. Hoban:	8	telling the family where we're going, what
9	Q Captain Kazimer, thank you very much for	9	hospital or what condition. Try to get that
10	coming today.	10	together. So not so much hands-on but more
11	Would you please state your full name	11	controlling the situation that's occurring.
12	for the record and spell your last name	12	Q I'm going to direct your attention -- well,
13	please?	13	let me ask this question first: Having worked
14	A Sure. It's Ellen Kazimer, K-a-z-i-m-e-r.	14	for EMS for almost 23 years can you describe
15	Q And Captain Kazimer, where are you currently	15	the relationship between EMS and the
16	employed?	16	community?
17	A City of Cleveland Division of EMS.	17	A Well, you mean our responsibilities, what I
18	Q And how long have you been employed with EMS?	18	feel our responsibility is?
19	A Since 1995.	19	Q What kind of relationship does EMS try to
20	Q And are you a paramedic?	20	maintain with the community?
21	A I'm a paramedic but my current role is	21	A neutral. You know, we're not there to
22	operational captain.	22	judge. I mean, I can say that there are times
23	Q How long have you been an operational captain?	23	where we have somebody who needs to be treated
24	A Since 9-18 -- I'm sorry 10-18 of 2011.	24	and oftentimes it's hey, it doesn't matter to
25	Q So October 18th of 2011?	25	us what you did, I just need to know so I can
Page 99		Page 101	
1	A Uh-huh.	1	treat you appropriately. So kind of just a
2	Q What are the duties of an EMS captain?	2	neutral party so that we can get to the end
3	A Well, what aren't the duties of an EMS	3	means, which is treating the person
4	captain? We have a wide variety of duties;	4	appropriately so not to make any judgments.
5	staffing, supplies, medications, overseeing	5	Q I'm going to direct your recollection to
6	personnel, handling complaints, whether it be	6	February 15th of 2016. Were you working that
7	families, communities, hospital staff,	7	day?
8	handling injuries, MVAs, exposures. Just	8	A I was.
9	about anything that would occur in our 12 hour	9	Q And in what capacity were you working?
10	shift we're likely going to touch.	10	A As a operational captain in the field as
11	Q And as a captain your shift is from 6 a.m. to	11	Captain 1.
12	6 p.m.?	12	Q Was there another captain scheduled that day
13	A Mine is, yes.	13	as well?
14	Q When you work; is that correct?	14	A The other captain was Captain Threat who was
15	A Uh-huh.	15	at the dispatch center.
16	Q Do you respond to EMS calls?	16	Q Did you receive any communication from any EMS
17	A We do have calls that we're required to go to	17	member on 15, February, 2016 who wanted to get
18	and other ones that we can go to at our	18	in touch with Captain Threat?
19	discretion.	19	A That is correct. Paramedic Mark Barrett had
20	Q What types of calls are you required to go to?	20	contacted me wanting to get ahold of Captain
21	A Anything that is high level, gunshot wounds,	21	Threat and I said, you know, is this work
22	MVAs, suicide attempts, anything that might be	22	related, what is this. He said I just need to
23	in the public, high profile.	23	talk to him about something. And I said I'm
24	Q Do you have any particular duties when you	24	not going to give you Mike's number, but if
25	respond to an actual EMS call? Do you do	25	you give me your number I'll pass it on to

26 (Pages 98 to 101)

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<p style="text-align: right;">Page 102</p> <p>1    Mike. That's what I did.</p> <p>2    Q    Did you ever speak to Mr. Barrett on February 3        15th?</p> <p>4    A    Other than that conversation?</p> <p>5    Q    Other than that conversation.</p> <p>6    A    No.</p> <p>7    Q    Did you pass his number on to Captain Threat?</p> <p>8    A    I did.</p> <p>9    Q    Okay. Do you know if Captain Threat spoke 10      with Mr. Barrett?</p> <p>11   A    To my recollection I don't know if he reached 12      out to him or not.</p> <p>13   Q    Did you receive or have a communication with 14      any other EMS member on February 15th, this is 15      other than Mr. Barrett, regarding a Facebook 16      post from Mr. Marquardt?</p> <p>17   A    Yes, then I received later on in the day a 18      text from Paramedic Greg Hyde saying that he 19      needed to speak with or wanted to speak with 20      Captain Threat regarding something that he saw 21      that he wanted to reach out to us, 22      specifically Mike, to talk to him about it.</p> <p>23   Q    Were you aware or had you seen a Facebook post 24      at that point? Did you know what that was 25      about at that time?</p>	<p style="text-align: right;">Page 104</p> <p>1    Q    I'll direct your attention to City Exhibit 1. 2    It's identified there as CX-1. Did you at 3        some point on February 15th view this post?</p> <p>4    A    I did.</p> <p>5    Q    And how did you view it?</p> <p>6    A    Through my cell phone. Is that what you're 7        looking for, how I actually saw it?</p> <p>8    Q    Yes. Physically.</p> <p>9    A    On my cell phone.</p> <p>10   Q    Did you look at it with anybody else or just 11      by yourself?</p> <p>12   A    No, Captain Threat and I looked at it at that 13      time.</p> <p>14   Q    What was your reaction to it when you saw it?</p> <p>15   A    I was a bit shocked and disappointed.</p> <p>16   Q    Why?</p> <p>17   A    I just felt that the nature of what was 18      written was upsetting to me.</p> <p>19   Q    In your discussion with Captain Threat with 20      Mr. Hyde, did Mr. Hyde express his concerns 21      about the post to you? You said he had 22      concerns about Captain Marquardt and then he 23      had other concerns. What were those other 24      concerns?</p> <p>25   A    Just how it would paint us, us being the</p>
<p style="text-align: right;">Page 103</p> <p>1    A    No. You know, our day flows, our day flows. 2    It wasn't anything that seemed to require my 3        immediate attention at the time.</p> <p>4    Q    Did you speak to Mr. Hyde that day?</p> <p>5    A    Both Captain Threat and I spoke with him on 6        speaker phone on my cell phone.</p> <p>7    Q    Now, you don't hold the position of steward or 8        any officer positions with the CWA?</p> <p>9    A    No.</p> <p>10   Q    You are a member?</p> <p>11   A    That's correct.</p> <p>12   Q    But you have no office with CWA?</p> <p>13   A    That's correct.</p> <p>14   Q    How did the communication with you and Captain 15      Threat occur with Mr. Hyde? Was it on a cell 16      phone? Where was it?</p> <p>17   A    On my cell phone in a conference room with 18      doors closed so as to, whatever the situation 19      is, maintain privacy.</p> <p>20   Q    And what was the nature of the discussion with 21      Mr. Hyde?</p> <p>22   A    He wanted to express to us his concern about 23      posts that were made and his concern for 24      Captain Marquardt and for all of us in general 25      due to the nature of the post.</p>	<p style="text-align: right;">Page 105</p> <p>1    Division, possibly in not the best light with 2        the community.</p> <p>3    Q    Did he express any safety concerns?</p> <p>4    A    Yes.</p> <p>5    Q    Anything specific or what were the nature of 6        the safety concerns?</p> <p>7    A    My general recollection is that it just – it 8        could potentially put us in a position where 9        the community may not understand. As we know 10      how things role out in this life and such 11      completely that it could be somebody in – 12      could put them in danger, whether it be, you 13      know, verbally harassed or build upon that.</p> <p>14   Q    I'll direct your attention to CX-2, which 15      should also be there on the table in front of 16      you. Had you seen this post from 17      Mr. Marquardt as well?</p> <p>18   A    This one I saw later.</p> <p>19   Q    And what was your reaction to this when you 20      saw it?</p> <p>21   THE ARBITRATOR: Could we identify 22      later?</p> <p>23   Q    Indeed. How long ago was later?</p> <p>24   A    It was after I left the RED Center.</p> <p>25   Q    Still during the workday before 6 p.m.?</p>

27 (Pages 102 to 105)

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<p style="text-align: center;">Page 106</p> <p>1 A Correct.  2 Q But after you had actually left dispatch?  3 A Right.  4 Q What was your reaction when you saw it?  5 A It would have been similar to the initial  6 reaction I had.  7 Q Did you take any action after your  8 communication with Mr. Hyde and having seen  9 the post?  10 A I did not, no.  11 Q Do you know if any action was taken?  12 A Captain Threat contacted Deputy Commissioner  13 David Miller.  14 Q Did you agree that Commissioner Miller should  15 be contacted?  16 A Yes, I did agree.  17 Q And why did you agree?  18 A It looked like something that was not —  19 something that shouldn't be addressed at our  20 level and needed to be addressed at a higher  21 level than an operational captain.  22 Q Thank you, Captain. I have nothing further.  23 THE ARBITRATOR: Cross when you're  24 ready, sir.  25 <b>CROSS-EXAMINATION</b></p>	<p style="text-align: center;">Page 108</p> <p>1 A Uh-huh.  2 Q Was there any interaction with the public that  3 you saw that was detrimental, was it negative  4 in any fashion due to this post? Was there  5 any safety concerns due to this post that  6 you're aware of?  7 A None that I am aware of.  8 Q After this post are you aware if Jamie still  9 worked in the field?  10 A I have no recollection what his assignments  11 would have been after that. He was on a  12 different shift.  13 Q But you saw his name on the roster, you knew  14 he was scheduled and stuff like that?  15 A Correct.  16 Q So he was still working after these posts?  17 A To the best of my recollection.  18 Q And there was no public negative interaction  19 or anything?  20 A I did not experience any.  21 Q All right. Okay. You said that you received  22 phone calls from Mr. Barrett and Mr. Hyde  23 specifically asking to talking to Mr. Threat?  24 A Uh-huh.  25 Q Did they state why they wanted to talk to</p>
<p style="text-align: center;">Page 107</p> <p>1 By Mr. Passalacqua:  2 Q Good morning.  3 A Good morning.  4 Q All right. So you have Facebook?  5 A I do.  6 Q All right. Are you friends with Jamie on  7 Facebook?  8 A I was at that time.  9 Q At that time. When you were friends with  10 Jamie was there any indication on his Facebook  11 page where he was employed?  12 A No, not that I can recall.  13 Q He didn't reference at any time working for  14 the City or anything like that?  15 A Not that I can recall.  16 Q So nothing to tie Jamie to the City other than  17 you knew where he worked?  18 A My personal knowledge, correct.  19 Q So there was no public knowledge to that?  20 A As far as I know, correct.  21 Q And you said you work with the public in your  22 role as a captain?  23 A That's correct.  24 Q One would assume Jamie also does, seeing he  25 had the same position?</p>	<p style="text-align: center;">Page 109</p> <p>1 Mr. Threat and not to you?  2 A I did ask, because oftentimes — sometimes our  3 guys just want to talk to the other guys about  4 stuff and it is something I can handle. But  5 they wanted to speak to him in the capacity of  6 being the union steward and another union  7 member.  8 Q They weren't talking to Captain Threat as a  9 captain, they were talking to him because it  10 was a union issue?  11 A Correct.  12 Q Okay. You stated that Mr. Hyde made a comment  13 concerned about Jamie. Did he elaborate on  14 his concern for Jamie?  15 A I can only think that he felt it may have been  16 uncharacteristic and so therefore what was  17 going on.  18 Q So you thought it was unlike Jamie?  19 A That's what I think that Greg Hyde thought.  20 Q Okay. Thank you. Are you aware of City of  21 Cleveland employees making posts on social  22 media in the past that may be characterized as  23 negative, inflammatory, discriminatory?  24 A I'm sure stuff happens.  25 Q Are you aware of any disciplinary action ever</p>

28 (Pages 106 to 109)

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<p style="text-align: right;">Page 178</p> <p>1 if you're resting at the moment with the right 2 to rebuttal. 3 MR. HOBAN: Right. 4 THE ARBITRATOR: Let's take a break. 5 Off the record. 6 (Luncheon recess.) 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 180</p> <p>1 JAMIE MARQUARDT 2 Of lawful age, being first duly sworn, was examined 3 and testified as follows: 4 DIRECT EXAMINATION 5 By Mr. Passalacqua: 6 Q Jamie, please state and spell your name for 7 the court reporter. 8 A Jamie Marquardt. J-a-m-i-e. Marquardt is 9 spelled M-a-r-q-u-a-r-d-t. Sorry, I've got a 10 cold. 11 Q Jamie, approximately how long have you worked 12 for the City? 13 A Since September of '95. 14 Q Since September of '95. And it's always been 15 for the Department of EMS? 16 A Correct. 17 Q And originally you were hired as what? 18 A A paramedic. 19 Q Paramedic. Okay. Eventually you were 20 promoted; is that correct? 21 A Yes. 22 Q Who promoted you into what position? 23 A Commissioner Eckart. At the time he was 24 Commissioner Eckart. Assistant Safety 25 Director Eckart promoted me to sergeant to</p>
<p style="text-align: right;">Page 179</p> <p>1 AFTERNOON PROCEEDINGS 2 THE ARBITRATOR: Dave, your case. 3 MR. HOBAN: I will just note two 4 things, housekeeping. Two things for the 5 record: One, because Commissioner Carlton had 6 to leave for a family commitment Assistant 7 Safety Director Ed Eckart is sitting in as the 8 City's representative. 9 Additionally, pursuant to the questions 10 before, the copies of the City Civil Service 11 rules which were entered as Joint Exhibit 7 12 were last updated or last revised in 2006. 13 THE ARBITRATOR: Just a year you have? 14 MR. HOBAN: That's it. 15 And then the EMS rules and regulations 16 were last revised in 2005. 17 THE ARBITRATOR: And that was H, 18 right? 19 MR. HOBAN: That was H, yes, sir. 20 THE ARBITRATOR: Okay. That's all I 21 need. That's all I need. All right. Good 22 enough. Now, I think you start. 23 MR. PASSALACQUA: All right. Well, the 24 Union calls their first witness, Jamie 25 Marquardt.</p>	<p style="text-align: right;">Page 181</p> <p>1 work in the office in the logistics 2 department. That was probably about 2010 3 approximately. 4 Q 2010 approximately. Okay. And subsequently 5 after that you were eventually promoted a 6 second time? 7 A Yes. 8 Q All right. You were promoted to what? 9 A Operational captain. 10 Q Do you know approximately when that occurred? 11 A That was May – May of 2013. 12 Q May of 2013. And who promoted you? 13 A Commissioner Carlton. 14 Q Commissioner Carlton. Okay. I would like to 15 point to Tab 7 of the Union binder, Page 33. I 16 believe this is a memo to the Civil Service 17 Secretary from Acting Commissioner Carlton 18 asking Jamie and Beatrice Gomez to be 19 considered for a promotion, followed on page 20 34 by a certificate of appointment, and then a 21 conduct evaluation on Page 35, 36 and 37. 22 Jamie, looking at Page 30 of the 23 evaluation, on 35, 36, 37, is this an 24 evaluation for your job as a captain? 25 A It appears to be, but to be honest with you I</p>

<p style="text-align: right;">Page 198</p> <p>1 said while you remember the first post at the 2 top of the first page you just don't recall 3 any of the others; is that correct?</p> <p>4 A Yes.</p> <p>5 Q You're not denying that you made them, you 6 just don't remember making them?</p> <p>7 A I mean, some of these are blank. They're in 8 all different order. There is a different 9 font. So that's what I'm going from, my 10 memory.</p> <p>11 Q Okay. That's fair. I'm just saying you don't 12 remember. You're not saying you didn't make 13 this, you just don't remember?</p> <p>14 A Right, except for the one I do.</p> <p>15 Q You do remember the first one, right?</p> <p>16 A Yes.</p> <p>17 Q I'm going to direct your attention to City 18 Exhibit 1 that should be on the table there in 19 front of you.</p> <p>20 A I'm well aware of it.</p> <p>21 Q Just so you have it. You've got it there. So 22 looking at City Exhibit 1, that's your name at 23 the top of the page, right?</p> <p>24 A Yes.</p> <p>25 Q Jamie Marquardt?</p>	<p style="text-align: right;">Page 200</p> <p>1 A Many were not. Only a handful. 2 Q Only a handful. But there were some? 3 A There were some. 4 Q How about firemen, city firemen? 5 A Maybe a few. 6 Q A few as well. How about police? 7 A A few again. 8 Q So there were some police, EMS and fire among 9 your Facebook friends?</p> <p>10 A Yes.</p> <p>11 Q And those friends knew that you were an EMS 12 captain?</p> <p>13 A Yeah.</p> <p>14 Q Now, you would agree with me that EMS needs 15 the trust of the community to operate 16 effectively?</p> <p>17 A I agree.</p> <p>18 Q They have to look at EMS as the good guys?</p> <p>19 A Yes.</p> <p>20 Q And not feel judged or condemned by EMS 21 members?</p> <p>22 A Yes, I agree with that.</p> <p>23 Q And that's a question of the operational 24 effectiveness of EMS, correct?</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 199</p> <p>1 A Yes.</p> <p>2 Q That's a picture of you?</p> <p>3 A Yes.</p> <p>4 Q City Exhibit 2 should be there on the table in 5 front of you as well. Looks like this. 6 (Indicating.) CX-2 down on the lower 7 right-hand corner.</p> <p>8 A I'm having a heck of a time finding these 9 things. There you go.</p> <p>10 Q Do you have it?</p> <p>11 A Yes.</p> <p>12 Q This post also has your name at the top?</p> <p>13 A Yes.</p> <p>14 Q And that looks like part of a picture of you 15 to the upper left-hand side?</p> <p>16 A Yeah, it's the same picture.</p> <p>17 Q Okay. Now, in February of 2016 at the time 18 that these two posts were made, City Exhibit 1 19 and City Exhibit 2, you were Facebook friends, 20 as you said, you had approximately 250 Facebook friends; is that correct?</p> <p>22 A Yes.</p> <p>23 Q Many of those friends were EMS employees?</p> <p>24 A No.</p> <p>25 Q Many were not?</p>	<p style="text-align: right;">Page 201</p> <p>1 Q And the safety of EMS members?</p> <p>2 A Yes.</p> <p>3 Q Tamir Rice had been a patient of Cleveland 4 EMS, correct?</p> <p>5 A Of EMS, yeah, not me.</p> <p>6 Q Not you personally, but of Cleveland EMS?</p> <p>7 A Yes.</p> <p>8 Q You texted -- and this was in relation to -- 9 we can go from Tab 8, Page 6.</p> <p>10 A Are we done with these? (Indicating.)</p> <p>11 Q We may very well be back to those. But what 12 I'm also going to -- what I'm also going to go 13 to is City Exhibit 5, which looks like this. 14 (Indicating.) It's actually copies of text 15 messages between you and -- there you have it.</p> <p>16 A All right.</p> <p>17 Q So as we see in Tab 8, Page 6 there in the 18 binder and on City Exhibit 5, and as you 19 testified, on the afternoon of February 15, 20 2016 you texted Commissioner Carlton and told 21 her about the post, correct?</p> <p>22 A Yes.</p> <p>23 Q And you told her that a friend grabbed your 24 phone and made the post?</p> <p>25 A Correct.</p>

1 State of Ohio, )  
2 County of Cuyahoga. ) SS:

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4 C E R T I F I C A T E

5 This certifies that the foregoing is a true  
6 and correct transcript of the proceedings had  
7 before the American Arbitration Association,  
8 held at Burke Lakefront Airport, 1501 North  
9 Marginal Road, Cleveland, Ohio 44114-1077], on  
10 Thursday, January 18, 2018, commencing at  
11 10:00 a.m.

12

13 In the Matter of Arbitration Between:

14 Communication Workers of America, Local 4340  
15 and  
16 City of Cleveland  
17 Case No.: 01-16-0004-6966

18

19 *Mary Bolas-Dietz*

20

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